

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTHONY EUGENE LEWIS,) CASE NO. C08-1201-JCC-MAT
)
Plaintiff,)
)
v.) ORDER DENYING MOTIONS
) REGARDING PROPOSED SECOND
KING COUNTY,) AMENDED COMPLAINT
)
Defendant.)
_____)

Plaintiff Anthony Eugene Lewis proceeds *pro se* and *in forma pauperis* in this 42 U.S.C. § 1983 civil rights case. His allegations arise out of a March 2005 incident resulting in his arrest, prosecution, conviction for violation of the Uniformed Controlled Substance Act, and eventual exoneration of a mistrial.

Plaintiff originally named former King County Prosecuting Attorney Norm Maleng, current King County Prosecuting Attorney Daniel T. Satterburg, Chief of the Screening Division of the King County Prosecuting Attorney's Office John Doe, Deputy Prosecuting Attorney Gabrielle R. Dickerman, King County Prosecuting Attorney's Office, King County, King County Correctional Facility, and King County Risk Management Program as defendants. (Dkt. 1-2.)

01 The Court identified deficiencies in the proposed complaint, denied service, and granted plaintiff
02 an opportunity to amend. (Dkt. 4.) Plaintiff filed an amended complaint naming King County
03 and King County Correctional Facility as defendants. (Dkt. 7.) The Court dismissed plaintiff's
04 amended complaint as to King County Correctional Facility and directed service on King County.
05 (Dkt. 8.)

06 Plaintiff now seeks to amend his complaint by naming Seattle Police Officers Michael
07 Tietjen, James Lee, Kerry Zieger, Mark Hazard, Seattle Police Officers John and Jane Does #1-5,
08 and the King County Prosecuting Attorney's Office as defendants. (Dkts. 20 & 24.) He also
09 seeks leave of service of the proposed second amended complaint. (Dkt. 21.) For the reasons
10 described below, the Court finds no basis for granting plaintiff's motions.

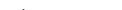
11 Federal Rule of Civil Procedure 15 provides that "leave [to amend a pleading] shall be
12 freely given when justice so requires." Fed. R. Civ. P. 15 (a). Leave to amend may be denied
13 where there is undue delay, bad faith or dilatory motive, undue prejudice to the opposing party,
14 or when the amendment would be futile. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). In this
15 case, plaintiff's proposed amendments would be futile.

16 As noted by defendant, plaintiff has an existing lawsuit, regarding the same incident at
17 issue in this case, in which he names Seattle Police Officers Tietjen, Lee, Zieger, and Hazard as
18 defendants. *See Lewis v. City of Seattle*, No. C07-1517-MJP-BAT. In fact, the Court recently
19 issued a Report and Recommendation in that lawsuit recommending denial, in part, of a summary
20 judgment motion filed by those defendants based on the existence of material factual disputes.
21 (*Id.*, Dkt. 79.) Given the separate, ongoing lawsuit, it would not be appropriate to add the same
22 defendants in this case.

Nor should Seattle Police Officers John and Jane Does or the King County Prosecuting Attorney's Office be added as defendants. As the Court previously noted in denying service of plaintiff's first proposed complaint, the King County Prosecuting Attorney's Office is an entity of King County and, as such, is not a proper defendant in this action. *See Nolan v. Snohomish County*, 59 Wn.App. 876, 883, 802 P.2d 792 (1990) ("[I]n a legal action involving a county, the county itself is the only legal entity capable of suing and being sued.") Also, in addition to the fact that "Doe" defendants are generally disfavored, *see Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980), plaintiff's claims against Seattle Police Officers John and Jane Does #1-5 are clearly related to his other pending lawsuit, as opposed to this lawsuit against King County. (See Dkt. 20 at 26-31.)

In sum, the Court concludes that justice does not require plaintiff's requested amendments. Accordingly, plaintiff's pending motions regarding his proposed second amended complaint (Dkts. 20, 21 & 24) are DENIED. The Clerk is directed to send copies of this Order to the parties and to the Honorable John C. Coughenour.

15 DATED this 12th day of March, 2009.



Mary Alice Theiler
United States Magistrate Judge